# Breathe Easier Alliance of Alabama

# (BEAA)


**The Breathe Easier Alliance of Alabama is an advocacy group focused on legislation affecting tobacco harm reduction for adults via personal vaporizers which are shown to reduce the morbidity and mortality associated with smoking.**

# Who We Are

- BEAA membership is comprised of responsible business owners who understand that exceptional accountability and high standards are vital to gaining acceptance of those who believe the industry is driven or influenced by big tobacco.
- The vaping industry in Alabama is comprised of over 300 small businesses that employ over 2000 people, all while facilitating a reduced-harm alternative for millions of tobacco users.
- BEAA members alone include well over 50 small vape related businesses, employing over 250 employees utilizing some 50,000 square feet of retail space with taxable sales totaling over $25,000,000.00.
- The vapor products industry is the epitome of the American Dream; We are not huge corporations with endless resources. I as well as many others have risked our homes, retirement and everything that we have for a chance at the American Dream. We are the entrepreneurs and visionaries on which this industry has thrived. We work seventy and eighty hours a week for something we feel passionately about. We have grown organically and become a vibrant and multibillion-dollar industry that constantly strives to be more and more creative and innovative in tobacco harm reduction.

# Pre-Market Tobacco Approval Application Process

- The FDA has estimated the cost of applying for a Pre-Market Tobacco Approval for each vapor product at 5,000 hours and $333,554.
- These estimates are also totally unrealistic, as experts estimate the actual cost of completing an application to be more like $3.3 million, and could be more like $33 million per SKU.
- The cost alone will preclude any small or even reasonable sized company from applying thus leaving the market wide open to big tobacco and effectively decimating the small business owners.
- The FDA has openly admitted that the proposed rule would have a significant economic impact on "small entities". At no time do they appear to consider the benefits these small businesses bring to their communities by way of employment, sales tax, retail space rental and most importantly offering a better alternative to combustible cigarettes.

## Table 1
### Smokers Represent Significantly Larger Proportion of Medicaid Recipients than General Population
### 2011

| State | Percent Smokers | | Medicaid Enrollment | Number of Smokers on Medicaid |
|---|---|---|---|---|
| | Medicaid | General Population | | |
| United States | 31% | 21.2% (median) | 68,372,045 | 36,461,205 |
| Alabama | 52% | 24.3% | 935,313 | 487,923 |
| Alaska | 66% | 22.9% | 135,059 | 91,840 |
| Arizona | 49% | 19.2% | 1,959,470 | 974,640 |
| Arkansas | 54% | 27.9% | 777,833 | 420,030 |
| California | 43% | 18.2% | 11,500,863 | 5,173,262 |
| Colorado | 61% | 16.3% | 733,347 | 447,342 |
| Connecticut | 49% | 17.1% | 329,294 | 387,354 |
| Delaware | 88% | 21.7% | 233,225 | 129,471 |
| Florida | 46% | 19.3% | 3,829,173 | 1,761,420 |
| Georgia | 42% | 21.3% | 1,935,269 | 808,613 |
| Hawaii | 62% | 16.8% | 313,629 | 194,450 |
| Idaho | 62% | 17.2% | 409,456 | 253,863 |
| Illinois | 58% | 20.9% | 2,900,614 | 1,682,356 |
| Indiana | 68% | 25.6% | 1,208,207 | 821,581 |
| Iowa | 61% | 20.4% | 544,620 | 332,218 |
| Kansas | 54% | 22.0% | 363,755 | 196,428 |
| Kentucky | 65% | 29.0% | 1,065,843 | 692,796 |
| Louisiana | 43% | 25.7% | 1,293,869 | 556,364 |
| Maine | 63% | 22.8% | 327,524 | 206,340 |
| Maryland | 91% | 19.1% | 1,003,948 | 913,609 |
| Massachusetts | 33% | 18.2% | 1,804,611 | 797,444 |
| Michigan | 64% | 23.3% | 2,265,277 | 1,449,777 |
| Minnesota | 54% | 19.1% | 989,600 | 534,384 |
| Mississippi | 35% | 26.0% | 775,314 | 271,360 |
| Missouri | 66% | 25.0% | 1,116,505 | 743,493 |
| Montana | 70% | 22.1% | 136,442 | 95,509 |
| Nebraska | 64% | 20.0% | 284,000 | 181,760 |
| Nevada | 62% | 22.9% | 363,957 | 225,281 |
| New Hampshire | 80% | 19.4% | 152,182 | 121,746 |
| New Jersey | 36% | 16.8% | 1,304,257 | 469,533 |
| New Mexico | 50% | 21.5% | 571,621 | 285,811 |
| New York | 34% | 18.1% | 8,421,232 | 2,927,465 |
| North Carolina | 63% | 21.8% | 1,892,341 | 1,192,301 |
| North Dakota | 63% | 21.9% | 85,094 | 53,609 |
| Ohio | 65% | 25.1% | 2,526,533 | 1,642,246 |
| Oklahoma | 58% | 26.1% | 852,603 | 494,510 |
| Oregon | 67% | 19.7% | 690,264 | 462,544 |
| Pennsylvania | 70% | 22.4% | 2,443,909 | 1,710,736 |
| Rhode Island | 48% | 20.0% | 221,043 | 106,100 |
| South Carolina | 41% | 23.1% | 978,732 | 401,280 |
| South Dakota | 69% | 23.0% | 134,795 | 93,011 |
| Tennessee | 58% | 23.0% | 1,488,267 | 863,195 |
| Texas | 43% | 19.2% | 4,996,318 | 2,148,417 |
| Utah | 54% | 11.8% | 366,271 | 197,786 |
| Vermont | 67% | 19.1% | 184,088 | 123,339 |
| Virginia | 58% | 20.9% | 1,016,419 | 589,523 |
| Washington | 67% | 17.3% | 1,371,987 | 919,231 |
| West Virginia | 67% | 28.6% | 411,218 | 275,516 |
| Wisconsin | 63% | 20.9% | 1,292,799 | 814,463 |
| Wyoming | 68% | 23.0% | 76,372 | 47,351 |
| District of Columbia | 51% | 20.9% | 235,665 | 120,189 |

Source: Centers for Disease Control and Prevention, Centers for Medicare and Medicaid Services, and State Budget Solutions

## Table 2
### Comprehensive Costs of Smoking
### (Billions of Dollars)
### 2009

| State | Lost Productivity | | | Healthcare Costs | Total Smoking Costs |
|---|---|---|---|---|---|
| | Premature Death | Workplace | Total | | |
| United States | 117.1 | 67.5 | 184.6 | 116.4 | 301.0 |
| Alabama | 2.2 | 1.2 | 3.9 | 1.7 | 5.6 |
| Alaska | 0.2 | 0.2 | 0.4 | 0.3 | 0.7 |
| Arizona | 1.9 | 1.3 | 3.2 | 1.9 | 5.1 |
| Arkansas | 1.7 | 0.7 | 2.4 | 1.1 | 3.4 |
| California | 9.6 | 5.7 | 15.2 | 11.6 | 26.9 |
| Colorado | 1.5 | 1.2 | 2.5 | 1.6 | 4.1 |
| Connecticut | 1.2 | 0.7 | 1.9 | 1.7 | 3.6 |
| Delaware | 0.4 | 0.2 | 0.6 | 0.4 | 1.1 |
| District of Columbia | 0.3 | 0.1 | 0.4 | 0.3 | 0.9 |
| Florida | 7.9 | 4.4 | 12.3 | 7.3 | 19.6 |
| Georgia | 3.7 | 2.4 | 6.2 | 2.9 | 9.0 |
| Hawaii | 0.4 | 0.2 | 0.7 | 0.4 | 1.1 |
| Idaho | 0.4 | 0.3 | 0.7 | 0.4 | 1.1 |
| Illinois | 5.0 | 2.9 | 7.9 | 4.8 | 12.7 |
| Indiana | 3.0 | 2.1 | 5.1 | 2.6 | 7.7 |
| Iowa | 1.2 | 0.7 | 1.9 | 1.1 | 3.0 |
| Kansas | 1.0 | 0.6 | 1.6 | 1.0 | 2.6 |
| Kentucky | 2.6 | 1.3 | 3.9 | 1.8 | 5.7 |
| Louisiana | 2.4 | 0.9 | 3.3 | 1.8 | 5.1 |
| Maine | 0.6 | 0.3 | 0.9 | 0.7 | 1.6 |
| Maryland | 2.1 | 1.3 | 3.4 | 2.2 | 5.6 |
| Massachusetts | 2.2 | 1.3 | 3.4 | 3.7 | 7.1 |
| Michigan | 4.5 | 2.4 | 7.0 | 4.0 | 11.0 |
| Minnesota | 1.5 | 1.5 | 3.0 | 2.3 | 5.4 |
| Mississippi | 1.8 | 0.7 | 2.4 | 1.0 | 3.5 |
| Missouri | 3.0 | 1.5 | 4.5 | 2.7 | 7.2 |
| Montana | 0.3 | 0.2 | 0.6 | 0.4 | 0.9 |
| Nebraska | 0.6 | 0.5 | 1.1 | 0.7 | 1.8 |
| Nevada | 1.1 | 0.7 | 1.7 | 0.9 | 2.6 |
| New Hampshire | 0.5 | 0.3 | 0.8 | 0.6 | 1.4 |
| New Jersey | 2.9 | 1.5 | 4.7 | 3.6 | 8.3 |
| New Mexico | 0.5 | 0.4 | 0.9 | 0.6 | 1.5 |
| New York | 6.9 | 3.9 | 10.8 | 9.8 | 20.6 |
| North Carolina | 4.1 | 2.2 | 6.3 | 3.4 | 9.7 |
| North Dakota | 0.2 | 0.2 | 0.4 | 0.3 | 0.7 |
| Ohio | 5.7 | 2.9 | 8.6 | 5.2 | 13.9 |
| Oklahoma | 2.1 | 0.9 | 3.0 | 1.3 | 4.3 |
| Oregon | 1.3 | 0.8 | 2.1 | 1.3 | 3.4 |
| Pennsylvania | 5.4 | 3.2 | 8.6 | 5.7 | 14.2 |
| Rhode Island | 0.4 | 0.2 | 0.7 | 0.6 | 1.3 |
| South Carolina | 2.5 | 1.0 | 3.5 | 1.6 | 4.9 |
| South Dakota | 0.3 | 0.2 | 0.5 | 0.3 | 0.8 |
| Tennessee | 3.6 | 1.7 | 5.3 | 2.6 | 7.9 |
| Texas | 7.9 | 4.9 | 12.8 | 7.6 | 20.4 |
| Utah | 0.4 | 0.3 | 0.7 | 0.4 | 1.1 |
| Vermont | 0.2 | 0.1 | 0.4 | 0.3 | 0.7 |
| Virginia | 2.9 | 2.0 | 4.8 | 2.7 | 7.5 |
| Washington | 2.1 | 1.3 | 3.4 | 2.4 | 5.7 |
| West Virginia | 1.1 | 0.5 | 1.6 | 0.9 | 2.5 |
| Wisconsin | 2.0 | 1.4 | 3.4 | 2.4 | 5.8 |
| Wyoming | 0.2 | 0.2 | 0.4 | 0.2 | 0.6 |

Source: See Endnote 6 and State Budget Solutions

## Table 3
### Smoking Costs on Medicaid by State
### (Millions of Dollars)
### Fiscal Year 2012

| State | Medicaid Spending | Smoking Costs as Percent of Medicaid Spending | Smoking Costs on Medicaid |
|---|---|---|---|
| United States | 415,154 | 11% | 45,667 |
| Alabama | 8,027 | 9% | 452 |
| Alaska | 1,348 | 15% | 202 |
| Arizona | 7,905 | 18% | 1,423 |
| Arkansas | 4,160 | 11% | 435 |
| California | 50,166 | 11% | 5,515 |
| Colorado | 4,724 | 17% | 803 |
| Connecticut | 6,759 | 7% | 473 |
| Delaware | 1,465 | 10% | 146 |
| District of Columbia | 2,111 | 11% | 232 |
| Florida | 17,907 | 11% | 1,970 |
| Georgia | 8,526 | 10% | 853 |
| Hawaii | 1,493 | 11% | 164 |
| Idaho | 1,452 | 14% | 203 |
| Illinois | 13,393 | 11% | 1,473 |
| Indiana | 7,456 | 15% | 1,123 |
| Iowa | 3,495 | 10% | 350 |
| Kansas | 3,667 | 12% | 320 |
| Kentucky | 5,702 | 12% | 684 |
| Louisiana | 7,358 | 12% | 883 |
| Maine | 2,413 | 14% | 338 |
| Maryland | 7,685 | 12% | 922 |
| Massachusetts | 12,926 | 11% | 1,422 |
| Michigan | 12,460 | 13% | 1,620 |
| Minnesota | 8,894 | 11% | 978 |
| Mississippi | 4,666 | 9% | 422 |
| Missouri | 8,727 | 14% | 1,222 |
| Montana | 973 | 15% | 146 |
| Nebraska | 1,722 | 15% | 256 |
| Nevada | 1,739 | 11% | 191 |
| New Hampshire | 1,187 | 15% | 178 |
| New Jersey | 10,359 | 6% | 623 |
| New Mexico | 3,430 | 12% | 412 |
| New York | 53,386 | 11% | 5,864 |
| North Carolina | 12,282 | 11% | 1,351 |
| North Dakota | 744 | 12% | 89 |
| Ohio | 16,352 | 13% | 2,126 |
| Oklahoma | 4,642 | 12% | 557 |
| Oregon | 4,587 | 15% | 686 |
| Pennsylvania | 20,393 | 11% | 2,243 |
| Rhode Island | 1,556 | 9% | 148 |
| South Carolina | 4,848 | 11% | 533 |
| South Dakota | 749 | 16% | 120 |
| Tennessee | 8,798 | 11% | 968 |
| Texas | 28,286 | 11% | 3,111 |
| Utah | 1,903 | 14% | 266 |
| Vermont | 1,353 | 15% | 203 |
| Virginia | 6,906 | 11% | 760 |
| Washington | 7,560 | 18% | 1,361 |
| West Virginia | 2,790 | 11% | 307 |
| Wisconsin | 7,096 | 13% | 923 |
| Wyoming | 528 | 16% | 85 |

Note: States do not sum to Total due to rounding

Source: See Endnote 15 and State Budget Solutions

## Table 4
### Smoking Costs on Medicaid Exceeds State Cigarette Tax Collections and Tobacco Settlement Payments
### (Millions of Dollars)
### Fiscal Year 2012

| State | State Cigarette Tax Collections (a) | Tobacco Settlement Payments (b) | Smoking Costs on Medicaid | Smoking Costs on Medicaid as a Percent of State Cigarette Tax Collections and Tobacco Settlement Payments |
|---|---|---|---|---|
| United States | 17,226 | 7,190 | 45,667 | 87% |
| Alabama | 326 | 94 | 452 | 106% |
| Alaska | 67 | 30 | 202 | 208% |
| Arizona | 219 | 101 | 1,423 | 238% |
| Arkansas | 247 | 51 | 435 | 54% |
| California | 896 | 736 | 5,515 | 238% |
| Colorado | 203 | 91 | 803 | 173% |
| Connecticut | 435 | 124 | 473 | 123% |
| Delaware | 121 | 27 | 146 | 11% |
| District of Columbia | 56 | 35 | 232 | 214% |
| Florida | 581 | 369 | 1,970 | 164% |
| Georgia | 227 | 141 | 853 | 153% |
| Hawaii | 122 | 49 | 164 | -4% |
| Idaho | 46 | 35 | 203 | 177% |
| Illinois | 606 | 274 | 1,473 | 67% |
| Indiana | 465 | 130 | 1,123 | 89% |
| Iowa | 225 | 66 | 350 | 20% |
| Kansas | 104 | 98 | 320 | 98% |
| Kentucky | 277 | 102 | 684 | 81% |
| Louisiana | 133 | 141 | 883 | 223% |
| Maine | 140 | 51 | 338 | 77% |
| Maryland | 411 | 146 | 922 | 66% |
| Massachusetts | 574 | 254 | 1,422 | 72% |
| Michigan | 965 | 356 | 1,620 | 53% |
| Minnesota | 422 | 167 | 978 | 66% |
| Mississippi | 157 | 110 | 402 | 50% |
| Missouri | 105 | 135 | 1,222 | 409% |
| Montana | 87 | 30 | 146 | 24% |
| Nebraska | 68 | 38 | 256 | 145% |
| Nevada | 103 | 40 | 191 | 34% |
| New Hampshire | 215 | 43 | 178 | -31% |
| New Jersey | 792 | 251 | 623 | -39% |
| New Mexico | 75 | 39 | 412 | 260% |
| New York | 1,632 | 738 | 5,864 | 147% |
| North Carolina | 295 | 141 | 1,351 | 210% |
| North Dakota | 28 | 30 | 89 | 43% |
| Ohio | 843 | 295 | 2,126 | 67% |
| Oklahoma | 293 | 77 | 557 | 50% |
| Oregon | 256 | 79 | 686 | 106% |
| Pennsylvania | 1,119 | 337 | 2,243 | 54% |
| Rhode Island | 132 | 47 | 148 | -17% |
| South Carolina | 26 | 73 | 533 | 458% |
| South Dakota | 60 | 24 | 120 | 42% |
| Tennessee | 279 | 139 | 968 | 131% |
| Texas | 1,470 | 473 | 3,111 | 60% |
| Utah | 124 | 36 | 266 | 66% |
| Vermont | 80 | 35 | 203 | 77% |
| Virginia | 192 | 117 | 760 | 145% |
| Washington | 471 | 151 | 1,361 | 119% |
| West Virginia | 110 | 64 | 307 | 77% |
| Wisconsin | 658 | 131 | 923 | 15% |
| Wyoming | 26 | 19 | 85 | 90% |

(a) Includes all forms of tobacco taxes

(b) Includes Master Settlement Agreement and individual state payments

Source: Department of Commerce: Census Bureau, Internal Revenue Service, and State Budget Solutions

## Table 5
### Smoking Costs on Subsidized and Public Housing
### (Millions of Dollars)
### 2012

| State | Smoking Costs |
|---|---|
| United States | 496.8 |
| New York | 124.7 |
| California | 72.4 |
| Texas | 28.3 |
| Massachusetts | 24.0 |
| Florida | 23.2 |
| Ohio | 21.7 |
| Pennsylvania | 17.7 |
| New Jersey | 15.8 |
| Louisiana | 14.4 |
| North Carolina | 13.9 |
| Illinois | 13.3 |
| Tennessee | 12.9 |
| Michigan | 12.8 |
| Alabama | 12.4 |
| Georgia | 11.6 |
| Connecticut | 10.7 |
| Missouri | 9.4 |
| Indiana | 8.3 |
| Virginia | 7.8 |
| Mississippi | 7.2 |
| Kentucky | 7.1 |
| Minnesota | 7.1 |
| South Carolina | 7.0 |
| Maryland | 7.0 |
| Arkansas | 6.8 |
| Oklahoma | 6.8 |
| Wisconsin | 6.5 |
| Washington | 5.0 |
| Arizona | 4.9 |
| Colorado | 4.3 |
| West Virginia | 4.3 |
| Oregon | 4.3 |
| Maine | 4.2 |
| Rhode Island | 4.0 |
| Hawaii | 3.5 |
| Iowa | 3.5 |
| New Mexico | 3.0 |
| Kansas | 2.9 |
| Nebraska | 2.1 |
| Nevada | 1.9 |
| Vermont | 1.9 |
| New Hampshire | 1.9 |
| Utah | 1.4 |
| Delaware | 1.3 |
| North Dakota | 1.2 |
| South Dakota | 1.1 |
| Montana | 1.0 |
| Idaho | 0.9 |
| Wyoming | 0.6 |
| Alaska | N.A. |
| District of Columbia | N.A. |

Source: See Endnote 17 and State Budget Solutions

# FDA Deeming Regulations

- The FDA admits that not regulating new products like e-cigarettes may induce people to switch to products that the FDA do not regulate at all or with the same "stringency". So not regulating would imply a benefit and the proposed rule will cause harm.
- In the RIA Benefit Analysis, FDA anticipates that "the largest benefit of the proposed provisions would be the improvements in health and life expectancy resulting from reduction in the use of combustible tobacco products deemed under this proposed rule" These benefits will be reduced by the simple fact that electronic cigarettes are not combustible tobacco products and provide a safer alternative.
- In section 2(b) of the RIA, "Electronic Cigarettes and Other Non-combustible, Novel Tobacco Products" FDA plainly states: "The benefits of including electronic cigarettes in this proposed rule are unknown and therefore cannot be quantified (page 19)

# Conclusion

- Ultimately, the FDA not having regulatory power over the electronic cigarette industry would be ideal for business owners and consumers alike. We are not against reasonable, rational regulation however being lumped together with combustible cigarettes does not allow for our unique industry to flourish nor does it recognize the significant health benefits to consumers having access to a variety of tobacco harm reduction options and devices.
- Should the FDA move forward with full PMTA, we would hope the industry would have a minimum of 2 to 3 years to comply with requirements, once the requirements are clearly defined.
- Only 2-3 companies marketed vapor products before the grandfather date of February 15, 2007 guaranteeing Substantial Equivalence (SE) Reports cannot be submitted to the FDA, creating a de-facto ban of >99.9% of the vapor product manufacturers in the US. Further the SE process is opaque and entirely arbitrary, denying participants the ability to pre-plan, coordinate, or ensure they could comply (if it were ever available to them). Please support H.R. Bill 2058
- Our industry has been on notice for over a year that these regulations are coming and we have been waiting to find out what e-cigarette-specific PMTA requirements are so that we may prepare. There is a considerable difference between expedited EU-like requirements, which take months to prepare for, vs, full PMTA, which takes years.